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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,746	08/24/2001	Motohiko Sakamaki	110439	9915

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EXAMINER	
RAO, SHRINIVAS H	
ART UNIT	PAPER NUMBER
2814	

DATE MAILED: 08/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/935,746

Applicant(s)

SAKAMAKI ET AL.

Examiner

Steven H. Rao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Response to Amendment

Applicants' amendment filed on May 15, 2003 has been entered On May 22, 2003.

Therefore claims 1-5 as originally recited are currently pending in the Application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 to 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Publication No. 59171931 (Matsui Shoichi et al., herein after Matsui) in view of Sheridan et al. (U.S. Patent No. 6,421, 035, herein after Sheridan)

With respect to claim 1, Matsui describes a display device including : a pair of substrates which face each other (Matsui Fig.1 # 1), and at least one of which transmits light (Matsui figure 1 #1), a spacer sandwiched between the pair of substrates (Matsui fig. 1 # 3).

Matsui does not specifically describe its particles as being of two different colors and different electric characteristics.

However Sheridan in col. 2 lines 30-33, col. 3 lines 46 to 51 and col. 8 lines 27 to col.9 line 20 describe its particles as being of two different colors and

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different electric characteristics to be physically distinguishable from the particles of the first kind i.e. to choose / identify the particular kind of particles that need to be rotated/ aligned to produce desired displays by those particles.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to Include Sheridan's different colors and electrical characteristic particles in place of unspecified Matsui's particles in Matsui's device to be physically distinguishable from the particles of the first kind i.e. to choose / identify the particular kind of particles that need to be rotated/ aligned to produce desired displays by those particles. (Sheridan cols. 3,4) .

The remaining limitation of claim1 is:

all sealed in an inner space formed by the pair of substrates and spacer (Matsui figure 2) .

With respect to claim 2, wherein the spacer is formed on one pair of substrates and is fixed to the other substrate with a resin. (Matsui _ English Abstract – Constiution Section line 11) .

With respect to claim 3, wherein the spacer is formed by the outer surface of the spacer and the pair of substrates is filled with resin . (Matsui figure 2 #2).

With respect to claim 4, wherein the elastic member is forcedly inserted in to the space formed by the outer surface of the spacer and the pair of substrates. (Matsui figure 2).

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With respect to claim 5, wherein the spacer is formed on one of the pair of substrates and an elastic member is put between one end of the spacer adjacent to the other substrate. (Matsui figure 2).

With respect to claim 6, wherein there are two particles is elctrocondcutive and the other two particles are insulative (Matsui English Abstract) .

With respect to claims 7 and 8, wherein the two types of particles are 1um to 1000um and 5 to 50um. (col. 12).

With respect to claim 9 wherein the particles move to one or other pair of substrates when electric field is applied. (Matsui figure 1 or 2) .

With respect to claim 10, wherein the display device is electrophoric (Matsui – title).

With respect to claim 11, wherein the particles are tribo elctrically charged. (Sheridan col. 26).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven H. Rao whose telephone number is (703) 3065945. The examiner can normally be reached on 8.00 to 5.00.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 7463926 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 3067722.

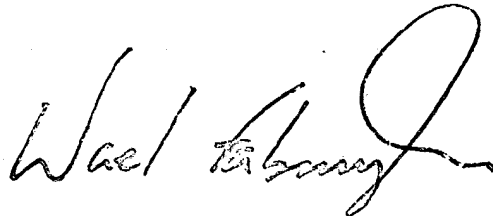
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Steven H. Rao

Patent Examiner

July 28, 2003.



SUPERVISORY PRIMARY EXAMINER
TECHNOLOGY CENTER 2800